

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on March 21, 2001 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Rod Bitney, Vice Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Roy Brown (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Dennis Himmelberger (R)  
Rep. Carol C. Juneau (D)  
Rep. Jim Keane (D)  
Rep. Rick Laible (R)  
Rep. Bob Lawson (R)  
Rep. John Musgrove (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Donald Steinbeisser (R)  
Rep. Brett Tramelli (D)  
Rep. James Whitaker (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Gordon Higgins, Legislative Branch  
Jane Nofsinger, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB96, SB438, SB441, SB482,  
3/14/2001  
Executive Action: SB482, SB441, SB48, SB292,  
SB438, SB96

**HEARING ON SB482**

**Sponsor:** SEN. PETE EKEGREN, SD44, CHOTEAU

**Proponents:** Jim Dusenbery, Montana Fire Districts Assn.  
John Semple, Montana Fire Alliance  
Chuck Christiansen, Montana State Fund

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. PETE EKEGREN, SD44, CHOTEAU, said this was a bill about volunteer fire fighters. He said the bill will give volunteer fire fighters the option of covering fire fighters at a minimum level, based on Montana's minimum wage rate to provide disability coverage. The act will provide the method to be used to establish the rate for elected workers' compensation coverage for self-employed volunteer firefighters.

**Proponents' Testimony:**

Mr. Dusenbery said they had three cases in the past several years where self-employed fire fighters were injured. He asked the committee to please pass the bill.

Mr. Semple said he wholeheartedly and enthusiastically supported the bill.

Mr. Christiansen said he also supported the bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

REP. BOOKOUT-REINICKE asked if it was voluntary. Mr. Christiansen said it was.

**Closing by Sponsor:**

SEN. EKEGREN said it was a good program and good protection for the volunteer firemen.

REP. WHITAKER will carry the bill in the House.

**HEARING ON SB441**

**Sponsor:** SEN. CHRIS CHRISTIAENS, SD23, GREAT FALLS

**Proponents:** Aidan Myhre, MCHA

Tom Schneider, State Health Commission, MPEA

John McEwen, Department of Administration

Glenn Leavitt, University Health System

Don Allen, Montana Benefits and Life

Scott Assay, EBMS

Dirk Visser, Intermount Administrators

Hal Luttschwager, Benefits Officer

Claudia Clifford, State Auditor's Office

Chuck Butler, BCBS

Eric Feaver, MEA / MFT

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. CHRIS CHRISTIAENS, SD23, GREAT FALLS, first passed out an amendment which he said would change the essence of the bill from a stop loss carrier to a study which would be conducted over the next two years. **EXHIBIT (buh64a01)** He said in 1997 MCHA was formed to help individuals who were not able to get insurance. People who are unemployed and without insurance need to apply two times and be denied to be eligible for this insurance. Insurance companies are assessed 1% to fund this program. "This is the insurance of last resort for many folks," he said. He explained the legislature had appropriated \$2 million to make it possible. He said the program now has generated \$1.5 million from the fees collected from the insurance companies. He said there is \$67 million per year lost in uncompensated care. This cannot continue, he said, because others have to pick up the cost. He asked the committee to put this into a study over the next two years and bring in all the possible players.

**Proponents' Testimony:**

**Ms. Myhre** said there are 2000 members under MCHA. She said the premiums are limited to no more than 200% of the health industry's price. She said the 1% fee covers 60% of the cost. She said after the Senate hearing they realized it would be better to turn the bill into a study bill and involve all parties.

**Mr. Feaver** said he represented a large self-insurer and self-funded trust, and had not been engaged in the discussion. He said the amendments being put before the committee were his.

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**Mr. Schneider** said the original bill would have cost the university system \$2 million dollars over the next biennium. He said they got together with the MEA/MFT to come up with the amendments and they supported them.

**Mr. McEwen** administers the program and said he supports the plan.

**Mr. Leavitt** said the fiscal note was erroneous and he had not been involved in the discussion.

**Mr. Allen** said the bill and amendments were a good compromise.

**Mr. Assay** said he had come in opposition and with the amendments he could now support the bill.

**Mr. Visser** said he supported MCHA but it needed to be equitable. He presented written testimony. **EXHIBIT (buh64a02)**

**Mr. Luttschwager** said he was opposed but now he supported the bill with the amendments.

**Ms. Clifford and Mr. Butler** also said they supported the bill and agreed with the amendments.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. LAIBLE** asked **SEN. CHRISTIAENS** if the state and university employees would be included in the study since they were one of the largest segments. The sponsor said they would be included.

**Closing by Sponsor:**

**SEN. CHRISTIAENS** said the bill may seem like a problem because of how it evolved and they probably should ask for a new fiscal note. He said there will be some funding required for the study, but he emphasized health insurance is a big problem in Montana. He noted the City of Billings was currently paying claims from their general budget, and situations like this cannot be allowed to continue.

**HEARING ON SB438**

**Sponsor:** SEB. CHRIS CHRISTIAENS, SD23, GREAT FALLS

**Proponents:** Gregg Van Horssen, State Farm  
Claudia Clifford, State Auditor's Office

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. CHRIS CHRISTIAENS, SD23, GREAT FALLS,** said these are standards for property and casualty insurers who are seeking utilization review opinions relating to coverage for medical expenses or bodily injury. He noted this would involve the use of an outside expert who must be registered with the Commissioner of Insurance.

**Proponents' Testimony:**

**Mr. Van Horssen** said he strongly supported the bill. He said the utilization review is a process where medical necessity and reasonableness of treatment is reviewed. He said this began in the 1960's under the "Medi's." He said the establishment of standards would be helpful.

**Ms. Clifford** said there are review standards in the law and this would be a companion to that. She called it important consumer legislation.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BOOKOUT-REINICKE** asked if medical review was used mainly when litigation was going on, and did judges always accept the review. **Mr. Van Horssen** said not always, and that the bill would not affect whether a judge accepted an individual report.

**REP. LAIBLE** asked who funded the review organizations. **Mr. Van Horssen** said they are private companies who have professional staff.

**Closing by Sponsor:**

**SEN. CHRISTIAENS** said it is a good bill for the consumer.

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HEARING ON SB96

Sponsor: SEN. CCCHIARELLA, SD32, MISSOULA (for SEN. MAHLUM)

Proponents: Jerry Driscoll, Montana Building Trades Council  
Aidan Myhre, Montana Chamber of Commerce  
Nancy Butler, State Fund  
George Wood, Montana Self-Insurers Assn.  
Bob Worthington, Municipal Insurance Authority  
Jacqueline Lenmark, AIA  
Riley Johnson, NFIB  
Darrell Holzer, AFL-CIO  
Al Smith, Montana Trial Lawyers

Opponents: None

Opening Statement by Sponsor:

SEN. COCCHIARELLA, SD32, MISSOULA, said the Interim Business and Labor Committee met and developed this bill. She said the bill reduces the waiting period for receiving temporary total disability benefits from 6 days to 5 days.

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Proponents' Testimony:

Mr. Driscoll said no opponents have signed in so vote for it.

Ms. Myhre said it was a good bill and she had been involved in the interim process.

Ms. Butler said the original bill has a .2 - .4% rate increase estimate.

Mr. Wood said he supported the bill and asked the committee to concur.

Also supporting the bill were Bob Worthington, Jacqueline Lenmark, Riley Johnson, Darryl Holzer, and Al Smith.

Opponents' Testimony: None

Informational Witness:

Mr. Keck offered information which showed the waiting period of several states and written testimony.

**EXHIBIT (buh64a03) EXHIBIT (buh64a04)**

**Questions from Committee Members and Responses:**

REP. BROWN asked SEN. COCCHIARELLA if these were the old numbers on the fiscal note. SEN. COCCHIARELLA said she never got a revised cost estimate from the Director of the Budget.

**Closing by Sponsor:**

SEN. COCCHIARELLA said, "We all represent more workers than businesses and all the workers want here is one small day of \$31 pay." She said Montana doesn't pick up the first five days like other states do. She said she had been working on workers' compensation issues since 1989. She asked the committee to look at all the parties who had come together and asked for this bill.

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**EXECUTIVE ACTION ON SB482**

**Motion:** REP. GALVIN-HALCRO moved that SB482 BE CONCURRED IN.

**Vote:** Motion carried unanimously.

REP. WHITAKER will carry the bill in the House.

**EXECUTIVE ACTION ON SB441**

**Motion:** REP. LAWSON moved that SB441 BE AMENDED.

**Discussion:**

REP. LAIBLE said he would support it but would offer an amendment to take out the third "whereas."

REP. LAWSON said he thought the "whereas" was to point out they aren't.

**REP. LAIBLE** said they could add "could be."

**CHAIRMAN MCKENNEY** said he agreed that it states the situation today.

**Mr. Higgins** agreed saying "whereas" is a snapshot in time to provide guidance, and represents what is happening today.

**REP. LAIBLE** withdrew his substitute motion.

**REP. BROWN** said the amendment makes the bill into a study and it will go into the pool of studies to be voted on.

**REP. LAWSON** said, "No, this is a bill, and that is why the second fiscal note was requested."

**Mr. Higgins** said the amendment assigns the matter to the Insurance Commissioner so it will not be in the study pool.

**Vote:** Motion carried 18-1 with Brown voting no.

**Motion/Vote:** **REP. LAWSON** moved that **SB441 BE CONCURRED IN AS AMENDED**. Motion carried 18-1 with Brown voting no.

#### **EXECUTIVE ACTION ON SB48**

**Motion:** **REP. HIMMELBERGER** moved that **SB48 BE CONCURRED IN**.

**Discussion:**

**Motion:** **REP. HIMMELBERGER** moved that **SB48 BE AMENDED**.

**Discussion:**

**REP. HIMMELBERGER** said the amendments would allow for a \$25 annual renewal fee to purchase a "Connoisseur's License," and to receive direct shipment. The collectors would be allowed to receive up to 24 cases of wine and 24 cases of beer per year. He said the breweries and wineries must register with the state and pay a fee in order to ship into the state. He said that twice a year the connoisseurs would have to pay tax on the wine and beer they received. **EXHIBIT (buh64a05)**

**REP. MATTHEWS** asked how many licenses they expected to issue.



**REP. HIMMELBERGER** said he didn't know and there was no way to predict. He said he had lots of e-mail and phone calls.

**REP. MATTHEWS** said these amendments would bypass the wholesalers and retailers and allow California and Oregon to ship into Montana. He said he had spent 20 years in the bar system and he still believed in the three-tier system. He said he would vote against it.

**REP. LAIBLE** asked how the bill would affect in-state wineries and breweries.

**REP. HIMMELBERGER** said it wouldn't because they would be under the same laws as before.

**REP. LAIBLE** said he was in favor of the amendment and couldn't believe how many e-mails he had. He said it allows for out-of-state purchase for connoisseurs and for collection of taxes. "This accomplishes what the department is trying to do," she said.

**REP. MATTHEWS** said he hadn't received any e-mail from Miles City.

**REP. BROWN** said 288 bottles would almost be one a day, and that seemed like a lot to him.

**REP. HIMMELBERGER** said it seemed like what some other states were doing and that case amount was an average. He said the shipments might be made at a certain time and not available at another time. "You have to get it or it's gone," he said.

**REP. GALVIN-HALCRO** asked if the license might be used to purchase beer and wine for a group or a club which would make orders and "divvy them up." **REP. HIMMELBERGER** said the license has to be for one person and go to that address and have a special label. He said the beer and wine wholesalers were "on board" with this.

**CHAIRMAN MCKENNEY** said he supported the amendment although he normally did not support new licensing, but the amendments did allow common sense to enter in.

**Vote:** Motion carried 15-4 with Galvin-Halcro, Juneau, Keane, and Matthews voting no.

**Motion:** **REP. HIMMELBERGER** moved that **SB48 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**Motion:** **REP. LAIBLE** moved **SB48** be amended.

**Discussion:**

**REP. LAIBLE** said he thought the felony offense was too strong so he was eliminating it with this amendment.

**REP. GALLIK** supported this amendment saying a civil penalty was more realistic.

**Vote:** Motion **carried 16-3 with Galvin-Halcro, Lawson, and Matthews voting no.**

**Motion:** **REP. LAWSON** moved that **SB48 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**REP. BROWN** asked if there would still be consensus if the number of cases was lowered to 12.

**REP. HIMMELBERGER** said that might bother the connoisseurs,

**REP. BROWN** said "nibble by nibble" these distributors will lose business.

**REP. HIMMELBERGER** said these products are not available through distributors. He said larger wineries don't fool around with direct shipment. "This is a bill for the small winery," he said. He said he did not share **REP. BROWN's** opinion that 24 cases was a large amount for a year.

**REP. LAIBLE** said he was really in favor of the bill with this amendment. He told the committee not to lose sight all of the interested parties said it was acceptable.

**Vote:** Motion **carried 17-2 with Keane and Lawson voting no.**

**EXECUTIVE ACTION ON SB292**

**Motion:** **REP. GALVIN-HALCRO** moved that **SB292 BE CONCURRED IN.**

**Discussion:**

**REP. GALVIN-HALCRO** handed out comments from Russ Cravens. **EXHIBIT (buh64a06)** She said the bill doesn't prevents drain cleaners from being listed, it just lists them under the heading where they belong, "drain cleaners."

**Motion:** REP. WHITAKER moved that SB292 BE AMENDED.

**Discussion:**

**Mr. Higgins** said the amendment strikes Subsection B and replaces it with language from the electrical code. It basically says one cannot use the term "plumber" unless one is a plumber.

**CHAIRMAN MCKENNEY** said under this amendment one can still be listed under plumbing, but they cannot say they are a plumber.

**Vote:** Motion failed 9-10 with Bitney, Brown, Himmelberger, Laible, McKenney, Price, Rome, Steinbeisser, and Whitaker voting aye.

**REP. LAIBLE** said if this bill makes it we will be legislating where advertising can be in the Yellow Pages.

**REP. BROWN** said, "We need to try and stop protecting people from themselves." He said a person needs references regardless of whom they are calling. He said this bill was not the answer to this "turf war."

**Vote:** Motion failed 6-13 with Bitney, Bookout-Reinicke, Galvin-Halcro, Juneau, Keane, and Lawson voting aye.

**Motion/Vote:** REP. WHITAKER moved that SB292 BE TABLED. Motion failed 13-6 with Bitney, Bookout-Reinicke, Galvin-Halcro, Juneau, Keane, and Lawson voting aye.

**EXECUTIVE ACTION ON SB438**

**Motion/Vote:** REP. LAWSON moved that SB438 BE CONCURRED IN. Motion carried unanimously.

**REP. GILLAN** will carry the bill in the House.

**ADJOURNMENT**

Adjournment: 11:30 A.M.

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REP. JOE MCKENNEY, Chairman

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JANE NOFSINGER, Secretary

JM/JN

**EXHIBIT** (buh64aad)